IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 802 OF 2006
IN
CHAMBER SUMMONS NO. 1490 OF 2005
IN
CHAMBER SUMMONS NO.1050 OF 1996
IN
EXECUTION APPLICATION NO. 111 OF 1996
IN
ARBITRATION PETITION NO. 48 OF 1996
IN
AWARD NO. 230 OF 1995

PRIME SECURITIES LTD., .. APPELLANT.

V/s.

1. NAGARJUNA SECURITIES LTD.& ORS. .. Respondents.

Mr. Janak Dwarkadas, senior counsel with Ishwarprasad Bagaria and Ms. Dipti Chand i/by M/s. Advani & Co. for the Appellant.

Mr.Kishore Jain for the Respondent No.4.

Mr. Y.C.Parikh, Official Assignee present.

CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATED : 07th DECEMBER, 2006.

P.C.:

. The senior counsel for the Appellant and the counsel for the Respondent No.4 agree that both the orders, namely, the order dated 19th January, 2004 passed in Chamber Summons No. 1050 of 1996 and the order dated August 30, 2006 passed in Chamber Summons No. 1490 of 2005 be set aside and that liberty be

granted to the Appellant to make fresh application for raising attachment of the subject flat.

2. Hence, the following order :

i. The order dated 19th January, 2004 in chamber summons No. 1050 of 1996 is set aside.

ii. The order dated August 30, 2006 in chamber summons No. 1490 of 2005 is also set aside.

iii. Liberty is granted to the Appellant to take out fresh chamber summons for raising attachment in respect of the subject flat, being Flat No.47 in Jaldarshan Co-operative Housing Society Ltd., 51, D. Jagmohandas Marg, Nepean Sea Road, Bombay 400 036.

3. Since the liberty has been granted to the appellant to take out fresh chambers summons for raising attachment of the subject flat, the chamber summons No.1050 of 1996 and chamber summons No. 1490 of 2005 shall be deemed to have been disposed of.

4. The appellant shall also be at liberty to apply to the learned single Judge for interim relief, pending the chamber summons. Obviously, such application shall be considered on its own merits by the learned single Judge.

5. In view of the fact that liberty has been granted to the appellant to take out a fresh chamber summons, obviously there cannot be any objection to the maintainability of such chamber summons on the ground of delay.

6. All the contentions of the parties are kept open to be agitated before the learned single Judge as and when fresh chamber summons is taken out by the appellant.

7. The Appeal stands disposed of accordingly.

(R.M.LODHA,J.)

(S.A.BOBDE,J.)

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